

FILED  
DISTRICT COURT OF GUAM

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MAR 29 2011 ✓

JEANNE G. OLMATTA  
CLERK OF COURT

Attorneys for Plaintiffs

IN THE DISTRICT COURT OF GUAM

11-00005

CIVIL CASE NO. CIV

CHIAKI OSHIMO, YUKI OSHIMO and  
TAKAHIDE OSHIMO by and through  
their Guardian Ad Litem SHINJI  
OSHIKO, and SHINJI OSHIMO in his  
individual capacity,

Plaintiffs,

**COMPLAINT**

vs.

CITY HILL COMPANY GUAM, LTD. dba  
TARZA WATERPARK and CHUNG KUO  
INSURANCE COMPANY, LTD.,

Defendants.

**INTRODUCTION**

1. This is an action for personal injury and loss of consortium  
brought by plaintiffs for the injuries sustained by plaintiff  
Chiaki Oshimo as a result of an accident inside the Master Blaster  
water slide at the Tarza Magical Adventure Zone Guam caused by the  
negligence of defendant City Hill Company Guam, Ltd. in the  
operation and maintenance of its premises.

**JURISDICTION**

2. This court has jurisdiction pursuant to the provisions of 28  
U.S.C. §1332.

ORIGINAL

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4 **PARTIES**

5 3. Plaintiffs Chiaki Oshimo and Shinji Oshimo are adult  
6 individuals, wife and husband and are citizens of Japan. Plaintiff  
7 Chiaki Oshimo is incompetent and plaintiff Shinji Oshimo has been  
8 appointed as Guardian Ad Litem for the purpose of pursuing this  
9 action in an Order issued by the Superior Court of Guam in Special  
10 Proceeding No. SP0018-11 on February 8, 2011.

12 4. Plaintiff Yuki Oshimo is a minor and a citizen of Japan.  
13 Plaintiff Shinji Oshimo has been appointed as Yuki Oshimo's  
14 Guardian Ad Litem for purposes of pursuing this action in an Order  
15 issued by the Superior Court of Guam in Juvenile Special Proceeding  
16 Case No. JP0044-11 on February 8, 2011.

18 5. Plaintiff Takahide Oshimo is a minor and a citizen of Japan.  
19 Plaintiff Shinji Oshimo has been appointed as Takahide Oshimo's  
20 Guardian Ad Litem for purposes of pursuing this action in an Order  
21 issued by the Superior Court of Guam in Juvenile Special Proceeding  
22 Case No. JP0044-11 on February 8, 2011.

24 6. On information and belief, defendant City Hill Company Guam,  
25 Ltd. is a Guam corporation duly licensed to do business on Guam and  
26 is doing business as Tarza Magical Adventure Zone Guam (hereinafter  
27 "Tarza").

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4 7. Defendant Chung Kuo Insurance Company, Ltd. (hereinafter  
5 "Chung Kuo") is an insurance company licensed to do business on  
6 Guam.

7

8 **FACTS**

9 8. At all relevant times herein, the defendant City Hill Company  
10 Guam, Ltd. owned, operated and maintained the premises of Tarza in  
11 Tumon, Guam.

12

13 9. On August 31, 2010, plaintiff Chiaki Oshimo entered Tarza as  
14 an invitee or patron. While riding in an inflated inner tube  
15 inside the Master Blaster water slide, plaintiff Chiaki Oshimo  
16 became stuck. Seeing Chiaki Oshimo stuck inside the Water Blaster,  
17 plaintiff's husband, Shinji Oshimo went into the water slide to  
18 help her. As he did, another patron collided with plaintiff Chiaki  
19 Oshimo's inner tube and caused it to lurch forward. Thereafter,  
20 plaintiff Chiaki Oshimo's inner tube collided with her husband who  
21 fell on top of her causing her serious injuries.

22

23 10. Defendant Tarza had a duty to exercise due care in the  
24 operation and maintenance of its water slides and premises and in  
25 the supervision of its lifeguards so as not to expose its patrons  
26 to an unreasonable risk of harm. At the time and place set forth  
27 above, defendant Tarza breached this duty in the following ways:

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4

5 a. There was insufficient water pressure in the master

6 blaster water slide so that patrons became stuck inside

7 the slide;

8

9 b. Defendant knew or in the exercise of reasonable care

10 should have known that the slides were not or were

11 inadequately monitored by lifeguards;

12

13 c. Defendant did not properly instruct patrons on the proper

14 and safe use of the ride;

15

16 d. Defendant did not take adequate measures to space their

17 patrons during their participation in the water slides by

18 controlling intervals between them; and

19

20 e. Defendant did not take adequate measures to supervise and

21 monitor its patrons.

22

23 11. Defendant Tarza knew, or in the exercise of reasonable care

24 should have known, of the conditions described above.

25

26 12. As a direct and proximate result of the negligence of

27 defendant Tarza as described above, at the time and place set forth

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4           above plaintiff Chiaki Oshimo collided with other patrons while  
5           inside the Master Blaster water slide and was seriously injured.

8           **FIRST CLAIM - PERSONAL INJURY OF CHIAKI OSHIMO**

9           13. Plaintiffs repeat and reallege each and every allegation of  
10          paragraphs 1 through 12 of the Complaint herein.

12          14. As a direct and proximate result of the negligence of  
13          defendant Tarza, plaintiff Chiaki Oshimo suffered damages for her  
14          injuries including, but not limited to, quadriplegia, necessitating  
15          spinal decompression surgery, which has caused and will continue to  
16          cause severe pain and suffering, mental anxiety, inconvenience,  
17          permanent physical impairment and loss of enjoyment of life.

19          15. As a further direct and proximate result of the negligence of  
20          defendant Tarza, plaintiff Chiaki Oshimo has incurred and will  
21          continue to incur medical and incidental expenses in an amount to  
22          be proven at trial.

24          16. As a further direct and proximate result of the negligence of  
25          defendant Tarza, plaintiff Chiaki Oshimo has suffered and will  
26          continue to suffer replacement services loss.

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4           17. As a further direct and proximate result of the negligence of  
5           defendant Tarza, plaintiff Chiaki Oshimo has permanently lost her  
6           capacity to earn income in an amount to be proven at trial.

7

8

9           **SECOND CLAIM - LOSS OF CONSORTIUM OF SHINJI OSHIMO**

10          18. Plaintiffs repeat and reallege each and every allegation of  
11          paragraphs 1 through 12 and 14 through 17 of the complaint herein.

13          19. As a direct and proximate result of the negligence of  
14          defendant Tarza and the resulting injuries to plaintiff Chiaki  
15          Oshimo, plaintiff Shinji Oshimo has been deprived and will continue  
16          to be deprived of the society, companionship, consortium and  
17          services usually provided by a spouse in good health and of  
18          unimpaired vigor and strength.

19

20          **THIRD CLAIM - LOSS OF PARENTAL CONSORTIUM OF YUKI OSHIMO**

21          20. Plaintiffs repeat and reallege each and every allegation of  
22          paragraphs 1 through 12 and 14 through 17 and 19 of the complaint  
23          herein.

25          21. As a direct and proximate result of the negligence of  
26          defendant Tarza and the resulting injuries to plaintiff Chiaki  
27          Oshimo, plaintiff Yuki Oshimo has been deprived and will continue

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4 to be deprived of the society, companionship, consortium, guidance  
5 and services usually provided by a parent in good health and of  
6 unimpaired vigor and strength.

7

8

9 **FOURTH CLAIM - LOSS OF PARENTAL CONSORTIUM OF TAKAHIDE OSHIMO**

10 22. Plaintiffs repeat and reallege each and every allegation of  
11 paragraphs 1 through 12 and 14 through 17, 19 and 21 of the  
12 complaint herein.

13

14 23. As a direct and proximate result of the negligence of  
15 defendant Tarza and the resulting injuries to plaintiff Chiaki  
16 Oshimo, plaintiff Takahide Oshimo has been deprived and will  
17 continue to be deprived of the society, companionship, consortium,  
18 guidance and services usually provided by a parent in good health  
19 and of unimpaired vigor and strength.

20

21

22 **FIFTH CLAIM - DEFENDANT CHUNG KUO COMPANY**

23 24. Plaintiffs repeat and reallege each and every allegation of  
24 paragraphs 1 through 13 and 15 through 17, 19, 21 and 23 of the  
25 Complaint herein.

26

27 25. At all relevant times herein, defendant Tarza was insured by

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4 a liability insurance policy issued by defendant Chung Kuo covering  
5 liability for claims such as those set forth above. Said insurance  
6 policy was in full force and effect at all relevant times herein.  
7

8 26. Pursuant to the coverage contained in said insurance policy,  
9 and pursuant to 22 GCA §18305, plaintiffs are entitled to maintain  
10 a direct action against defendant Chung Kuo upon the terms and  
11 limits of the policy and, accordingly, plaintiffs are entitled to  
12 recover against Chung Kuo in an amount equal to any judgment  
13 recovered against defendant Tarza up to applicable policy limits.  
14

15 **WHEREFORE**, plaintiffs pray for relief as follows:  
16

17 1. General damages of \$50,000,000.00 for the personal injury  
18 of plaintiff Chiaki Oshimo;  
19

20 2. Damages for past, present and future medical care of  
21 plaintiff Chiaki Oshimo in an amount to be proven at trial;  
22

23 3. For lost income capacity of plaintiff Chiaki Oshimo in an  
24 amount to be proven at trial;  
25

26 4. For loss of consortium of plaintiff Shinji Oshimo in an  
27 amount to be proven at trial;  
28

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4 5. For loss of consortium of plaintiff Yuki Oshimo in an  
5 amount to be proven at trial;

6 6. For loss of consortium of plaintiff Takahide Oshimo in an  
8 amount to be proven at trial;

10 7. Costs of suit; and

12 8. Such other relief as the Court may deem just and proper.

14 **LAW OFFICE OF ROBERT L. KEOGH**  
15 Attorneys for Plaintiffs

17 DATE: 3/29/11

18 BY: 

ROBERT L. KEOGH